

**DEPARTMENT OF STATE REVENUE**

**SECOND LETTER OF FINDINGS NUMBER: 99-0342P**  
**Sales and Use Tax**  
**Calendar Year 1995**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on March 19, 1999.

Taxpayer failed to self-assess and remit use tax on clearly taxable items, primarily samples given away, office supplies, computer equipment, building materials and other miscellaneous items. Taxpayer is a Delaware corporation engaged in selling hand tools, electric tools, drill bits, etc. at retail to the RV and mobile home industry.

At hearing, taxpayer states the company had a high degree of activity due to acquisitions and may have paid tax on invoices it cannot find. In addition, taxpayer states there are only two issues in the audit. A review of the file, however, indicates that the taxpayer had no use tax accrual system in place.

## **ISSUE**

### **I. Tax Administration – Penalty**

## **DISCUSSION**

Taxpayer requests a waiver of penalty and states there was a high degree of activity with regard to the parent's acquisition of other companies. Taxpayer further states it may have paid tax but cannot find the invoices and there are only two issues in the audit. The new CPA's hired after audit state they are now handling all policy and procedures which have been corrected.

Taxpayer's audit revealed that no use tax accrual system was in place. The fact that new CPA's were hired to handle current problems has no bearing on the years at audit.

The Indiana Use tax laws are clear in the Indiana Code and Regulations. The taxpayer was negligent in failing to self-assess and remit use tax due.

## **FINDING**

Taxpayer's protest is denied.